

Claimant alleges occupational disease while working as a plant nurse, safety coordinator and medical coordinator for respondent. Claimant alleges she became symptomatic after being exposed to paint fumes at her place of employment in September 1998. She further alleges additional aggravation on December 8, 1998, when the floors in her office were stripped and waxed by the janitors. When claimant went into her office, she testified she developed a headache which lasted four days.

Claimant was originally referred to Richard L. Hull, D.O., in 1998. Dr. Hull treated claimant through December 18, 1998. He found claimant to have exacerbated a preexisting chemical intolerance, resulting from the exposures to paint and other fumes at work. Dr. Hull noted claimant's longstanding problems with formaldehyde and certain chemicals from the mid-1980s, and recommended she be reevaluated by an environmental specialist in the Wichita area. He noted tension and stress contributed to her headaches, and further opined that her condition would improve if she would quit smoking.

Claimant began treating with J. Woody Harlan, M.D., of Kansas City Clinical Neurology Associates, on February 20, 1998, at Allen County Hospital. Lizbeth D. Cravens, M.D., began treating claimant in June 1998. In September 1998, Dr. Cravens diagnosed claimant with essential tremor, and weakness and ataxia of the right lower extremity. Dr. Cravens did not agree that claimant's multiple problems resulted from multiple chemical sensitivity. She was concerned that, with all the medical doctors that had treated claimant, none were capable of alleviating claimant's symptoms. In addition, in April 1999, she suggested that claimant go to the American Academy of Environmental Medicine in Prairie Village, Kansas. Claimant refused. Also, when Dr. Cravens suggested claimant be tested for HIV, claimant again refused. Dr. Cravens could not understand claimant's longstanding complaints, which were repeatedly unsupported by medical tests, coupled with her refusal to cooperate with recommended testing. She noted that claimant's tremors, which had been in existence for over five years, were made worse by stress. She also found the claimant's eight- to nine-year history of complex partial seizures unusual, as there were no structural abnormalities noted in the series of MRI scans performed on claimant.

Dr. Cravens noted claimant's history of headaches began in 1986 when claimant's home was recarpeted. Apparently, the installation process, in some fashion, triggered claimant's headaches. Dr. Cravens also noted that claimant lost her license to drive for a period of approximately six months during the 1980s due to her seizures.

Claimant was examined by Jay S. Zwibelman, M.D., in February 1999. Dr. Zwibelman, a neurologist, was unable to relate the claimant's multiple symptoms to any toxic chemical exposures at work. Dr. Zwibelman expressed confusion at claimant's ability to continue smoking cigarettes, even though cigarette smoke was known as an extremely toxic chemical source. Dr. Zwibelman stated in his April 14, 1999, report that claimant's condition was not a work-related problem.

When first questioned about her prior medical history, claimant denied a history of seizures, headaches and tremors. However, medical documentation pinpointed her history of seizures, headaches and tremors since as early as 1986. Claimant was first diagnosed with multiple chemical sensitivity by Charles T. Hinshaw, Jr., M.D.; however, none of Dr. Hinshaw's medical reports are in evidence.

In addition to the headaches, claimant has also alleged the development of memory problems, a loss of balance and a worsening of the tremors in her hand. The neurological experts were unable to verify the extent of claimant's alleged symptoms or claimant's insistence that her symptoms were related to a chemical toxicity exposure.

In workers' compensation litigation, it is claimant's burden to prove her entitlement to benefits by a preponderance of the credible evidence. See K.S.A. 1998 Supp. 44-501 and K.S.A. 1998 Supp. 44-508(g).

Claimant has some support in the record for her position that her chemical sensitivity is related to her work exposure. Dr. Hull opined that claimant had suffered an exacerbation of her symptoms with the exposure. He provided no indication whether he felt claimant's exposure resulted in any permanent condition. Donald K. Hopewell, M.D., a neurologist, felt there was no way to confirm or disprove claimant's complaints and her allegations of a work-related connection to her symptoms. He did suggest avoidance of exposure to the chemicals as a good course of action.

However, neurologists Dr. Zwibelman, who specializes in pain and headache treatment, and Dr. Cravens both considered the claimant's problems to be related to circumstances outside claimant's employment. Dr. Harlan, a neurologist also in Dr. Craven's office, discussed with claimant the possibility that the Dilantin, which claimant used to control her seizures, may be causing the additional leg tremors. Claimant, however, was unwilling to discontinue the use of the Dilantin, as she feared she may again lose her license to drive.

In this instance, the Appeals Board finds it significant that claimant has been unable to specifically identify any chemical substance present in her workplace which would lead either to her seizures or her headaches.

The credible evidence does not support claimant's contentions that she suffered an exacerbation of her preexisting multiple chemical sensitivity condition. In addition, claimant has failed to prove what, if any, toxins were responsible for the multiple symptoms displayed during the many physical examinations and during the substantial courses of treatment provided by the various doctors. The Appeals Board finds claimant has failed to prove that she suffered an occupational disease which arose out of and in the course of her employment with respondent, and benefits should, therefore, be denied.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Brad E. Avery of October 8, 1999, should be, and is hereby, reversed, and claimant, Deborah Christenson, is denied benefits from respondent for injuries alleged through December 8, 1998.

IT IS SO ORDERED.

Dated this ____ day of January 2000.

BOARD MEMBER

c: William L. Phalen, Pittsburg, KS
Brenden W. Webb, Overland Park, KS
Brad E. Avery, Administrative Law Judge
Philip S. Harness, Director